

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN

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VERNON OARD,

Plaintiff,

Case No. 1:17-CV-1136  
Hon. PAUL L. MALONEY

COUNTY OF MUSKEGON, and  
14<sup>TH</sup> JUDICIAL CIRCUIT COURT,

Defendants.

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**NOTICE REGARDING PLAINTIFF'S MOTION TO COMPEL**

The parties hereby notify the Court of the following matter pertaining to Plaintiff's Motion to Compel (Dkt. No. 22) and this Court's Order on that Motion (Dkt. No. 34):

1. Per the Court's Order, Defendants determined that a memorandum by Circuit Judge Timothy Hicks concerning the investigation of Eric Stevens ("the Memorandum") indeed exists. The Memorandum is actually two separate documents dated March 20, 2017, and March 27, 2017, respectively, and Bates-numbered 1703-D to 1711-D. Defendants included the Memorandum on their

privilege log and have asserted the following privileges protect the Memorandum from disclosure: attorney-client communication, attorney work product, and deliberative process privilege.

2. Plaintiff's counsel took Judge Hicks' deposition in this matter, and believes that at least some or all of Memorandum must be disclosed and is not protected by the privileges cited by Defendants.

3. The parties agreed that the most appropriate method of resolution of this question is for Defendants to submit the Memorandum *in camera* for the Court's review and resolution of the question of whether some or all of the Memorandum must be disclosed to Plaintiff. Defendants will arrange to deliver the Memorandum to Magistrate Judge Green's chambers.

4. If the Court wants further briefing on the question, the parties are of course willing to submit that, and/or participate in a telephonic or in-person hearing, but the parties know that the Court is well-versed on the underlying issues from the last hearing on this matter.

Respectfully submitted,

PINSKY, SMITH, FAYETTE & KENNEDY, LLP  
Attorneys for Plaintiff

Dated: November 13, 2018

By: /s/ Sarah R. Howard

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Dated: November 13, 2018

By: /s/ Laura Bailey Brown by permission by SRH

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